

made between invention I, claims 1-14, 16-19, 21-29 and 41-43, and invention II, claims 44-49.

Applicant elects invention I, claims 1-14, 16-19, 21-29 and 41-43, without traverse (see below). Claims 44-49, directed to an un-elected invention, are canceled without prejudice.

## 2. Discussion

The Examiner may find, in accordance with a quite liberal modern practice in the Office in the placing of Requirements for Restriction Under 35 U.S.C. §121, that it is fairly clear that Applicants' claimed product may be derived from "another and materially different process" than the (sole) process claimed. Applicant finds it **not** to be so clear.

The Examiner correctly states the rules, and the MPEP. The Examiner finds that "[i]n the instant case, the product [claims 15-43] could be made by another method (**adhesive binding, press fitting, welding, etc.**)".

Applicant already stated in his like response to a Requirement for Restriction in the **predecessor** patent application that whether or not his product -- a composite laminate material -- can be made by any process other than a process involving "reacting under heat and pressure in the presence of atmospheric gases the plurality of first foils with the plurality of second foils so as to substantially completely react the one or more second metals and metal alloys with the one or more first metal and metal alloys, forming where each second metal foil had been a region of hard intermetallic compound" is a "close call". In other words, Applicant's **present** decision not to traverse the Examiner's requirement for restriction is a "close call".

It is **not** likely correct the Applicant's claimed product -- "A composite laminate material consisting of a plurality of metal layers of one or more tough first metals or metal alloys; interleaved with a plurality of regions, coextensive with the metal layers, of hard intermetallic material consisting of the one or more first metals and metal alloys compounded with one or more second metals or metal alloys; wherein the tough metal

layers are separated by the hard intermetallic regions; and wherein no second metals or metal alloys exist in native form, all being within the hard intermetallic material..." can be made ---as the Examiner asserts -- by adhesive binding.

The "press fitting" that the Examiner finds to be **another** process than that process specified in Applicant's (now canceled) method claim 1 was, and is, very strongly arguably within the scope of Applicant's past and present claims.

This leaves welding, including explosive welding. Applicant would argue that welding, **especially** explosive welding over an area by sandwiching materials between sheets of explosives, **is** within the scope of his claims.

However, Applicant has considered that an infringer (of Applicant's prospective patent(s), **if** ultimately granted) **might** argue that Applicant's claims mean that **only** externally supplied, sustained, heat as is taught to be preferred within Applicant's specification, is to be used in making Applicant's product composite laminate armor, and **not** such heat as **might** be held to be but incidental to explosive welding.

Accordingly, the Examiner's requirement for restriction has put Applicant in a position where Applicant does **not** want to admit, and does **not** admit, that the **sole and only** method of manufacturing his product is that **particular** method that is set forth in Applicant's (now canceled) claims 44-49.

Accordingly, Applicant elects prosecution of invention I, claims 1-14, 16-19, 21-29 and 41-43, **without traverse**.

### 3. Summary

The present amendment and remarks have addressed the Requirement for Restriction Under Rule 121 set forth in the Office Action. No new subject matter has been introduced by the present amendment.

In consideration of the preceding amendment and accompanying remarks, the present application is deemed in condition for substantive examination. The timely action of the Examiner to that end is earnestly solicited.

Applicant's undersigned attorney is at the Examiner's disposal should the Examiner wish to discuss any matter which might expedite prosecution of this case.

Sincerely yours,

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